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application forthcoming)
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JAMES BIRD,

Plaintiff,

No.

V.

KKMI SAUSALITO, LLC, AND ERIC KOSTER,
D/B/A J&H MARINE, A SOLE
PROPRIETORSHIP.

COMPLAINT FOR MONEY DAMAGES
DEMAND FOR JURY TRIAL

Defendants.

I. PARTIES

1. The plaintiff is JAMES BIRD. JAMES BIRD is a resident of the State of Washington.

2. Defendant KKMI SAUSALITO, LLC is located in Richmond, California, which is in

Contra Costa County. Upon information and belief, none of the members of KKMI SAUSALITO, LLC is a resident of the State of Washington.

3. Defendant ERIC KOSTER dba J&H MARINE (“J&H MARINE”) is a sole proprietorship residing in Stockton, California. Upon information and belief, J&H MARINE is not a resident of the State of Washington.

II. JURISDICTION

4. Upon information and belief, this Court has diversity jurisdiction under 28 U.S.C. § 1332. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs and is between citizens of different states. § 1332(a) & (a)(1); *see also* § 1332(c)(1).

III. INTRADISTRICT ASSIGNMENT

5. JAMES BIRD requests assignment in the San Francisco Division because a significant portion of this action arise in Contra Costa County. KKMI SAUSALITO, LLC is located in Richmond, California, which is in Contra Costa County.

IV. PERSONAL JURISDICTION

6. This Court has general personal jurisdiction over KKMI SAUSALITO, LLC and J&H MARINE.

7. This Court also has specific personal jurisdiction over KKMI SAUSALITO, LLC and J&H MARINE. This action arises from KKMI SAUSALITO, LLC's and J&H MARINE'S acts and omissions that occurred in the State of California.

V. VENUE

8. Venue is proper in the United States District Court for the Northern District of California because KKMI SAUSALITO, LLC and J&H MARINE reside in this district. 28 U.S.C. § 1391(b)(1). Venue is also proper in this district because a substantial part of the events or omissions giving rise to the claim occurred in this district. § 1391(b)(2).

VI. BACKGROUND

9. This action involves a marine vessel, known as the WATER SONG, owned by JAMES BIRD, Official No. 685792.

10. KKMI SAUSALITO, LLC performed services on the vessel pursuant to an agreement with JAMES BIRD

11. J&H MARINE also performed services on the vessel pursuant to an agreement between with JAMES BIRD.

12. On or about July 24, 2013, the vessel sustained severe damage proximately caused by the improper services performed by KKMI SAUSALITO, LLC and J&H MARINE.

13. As a result of defendants' conduct, JAMES BIRD has suffered the loss of use of the vessel; significant repair costs; and loss in value of the vessel.

VII. CAUSES OF ACTION

14. BREACH OF CONTRACT. All parties were capable of contracting. JAMES BIRD entered into contracts with the defendants whereby KKMI SAUSALITO, LLC and J&H MARINE agreed to perform work on the vessel in an appropriate and workmanlike manner. The contracts had lawful objectives. They had consideration and mutual assent. JAMES BIRD performed all of its obligations under each of the contracts. KKMI SAUSALITO, LLC and J&H MARINE breached their contracts. KKMI SAUSALITO, LLC's and J&H MARINE's breach proximately caused damage to JAMES BIRD as described above.

15. NEGLIGENCE. KKMI SAUSALITO, LLC and J&H MARINE owed JAMES BIRD a duty of care in the performance of services on the vessel. KKMI SAUSALITO and J&H MARINE breached that duty, proximately causing damage to JAMES BIRD as described above.

16. BREACH OF WARRANTY. KKMI SAUSALITO, LLC and J&H MARINE expressly and impliedly warranted that the services would be performed in an appropriate and workmanlike manner. KKMI SAUSALITO and J&H MARINE breached the warranty. The breach proximately caused damage to JAMES BIRD as described above.

VIII. PRAYER FOR RELIEF

17. JAMES BIRD requests

A. A jury trial;

- B. A money judgment against KKMI SAUSALITO and J&H MARINE and in favor of JAMES BIRD for an amount to be determined at trial;
- C. Attorney fees and costs to the maximum extent authorized by law;
- D. Pre- and post-judgment interest to the maximum extent authorized by law; and
- E. Such other relief as the Court deems appropriate.

DATED this 21st day of July, 2014.

KELLER ROHRBACK L.L.P.

By /s/ Havila C. Unrein

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